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20 RS. COURT FEE INDIA
वीस रुपये
TWENTY RUPEES

IN THE HIGH COURT OF JUDICATURE AT JAB

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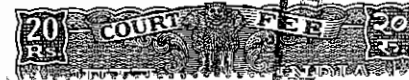
WRIT PETITION No. 5411 /1999.
(WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION
ON INDIA)

PETITIONER:

KHEMLAL VERMA S/O RIKHIRAM VERMA
Aged about 31 years, Resident of
village-Baikunth, Tahsil-Tilda,
District, Raipur (MP).

//Versus//

RESPONDENTS:



1. The State of Madhya Pradesh,
through Secretary,
Mineral Resources Department,
Vallabh Bhawan, BHOPAL (MP).
2. The Collector, Raipur (MP).
3. The Deputy Collector, Raipur (MP).
4. The Mining Officer, Raipur (MP).
5. Ghanaram S/o Samaru Yadav,
aged about 52 years, resident
of village-Bitkuli, Tahsil-Simga,
Distt. Raipur (MP).
6. Bisram S/o S/o Samaru Yadav,
aged about 45 years, resident
of village-Bitkuli, Tahsil-Simga,
Distt. Raipur (MP).

WRIT PETITION UNDER ARTICLE 226/227 OF THE
CONSTITUTION ON INDIA

आदेश पत्रक

मामला क्रमांक

W.P.No 5411/99

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	15.9.2004 Shri Ashish Shrivastava, counsel for the petitioner. Shri Sanjay S Agarwal, Govt. Adv. for the State. Shri Alok Sur, counsel for respondent No. 5 & 6. The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India being aggrieved by the order dated 25.11.1999 (Annexure P-20) whereby the Additional Secretary, Mining Department of erstwhile State of M.P. had cancelled the lease dated 12.2.1997 granted in favour of the petitioner on the ground that on an enquiry by the Collector, Raipur it was found that the petitioner herein obtained the lease on the strength of forged consent letter shown to be issued by respondent No.5 & 6. Petitioner's petition is that on 22.2.1989, the petitioner applied for grant of license for an area admeasuring 2.42 hectares bearing Khasra No.402/11 & 402/12 situated at Village Bitkuli, Tahsil Simga, District Raipur for extraction of major minerals. On the application of the petitioner objections were invited by issuing notice-dated 08.3.1999 (Annexure P-1). All the concerned authorities granted no objection certificate in favour of the petitioner, respondent No.5 & 6, who are the lessees of the land also granted no objection certificate by entering into an agreement dated 06.12.1989 with the petitioner, which was duly notarized. The then State Government after making due enquiry granted the license in favour of the petitioner herein in respect of an area measuring 0.737 hectares by order-dated 22.4.1991 (Annexure P-4),	

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(184)

आदेश पत्रक

मामला क्रमांक

W.P. No. 5411/99

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	thereafter, on 27.12.1991 a license in Form-F was issued in favour of the petitioner and since then the petitioner was extracting the stones without any intervention on behalf of respondent No.5 & 6. On expiry of the said lease period, the authorities again invited objections on 06.11.1992, the petitioner again submitted no objection certificate from respondent No.5 & 6 on 20.10.1993 vide Annexure P-8 & 9. In the meantime, respondent No.5 & 6 made a complaint to the authorities regarding obtaining of forged agreement by the petitioner. The Collector (Mining Officer) made an enquiry into the complaint and asked the police authorities to make an investigation and report its outcome to the Mining office, so that further action in the matter could be taken. The police authorities conducted an investigation and found the complaint to be baseless. The said complaint of respondent No.5 & 6 was also investigated by the Naib Tehsildar, Suhela, who also found the complaint of respondent No.5 & 6 to be baseless. Thereafter, on 27.6.1997 the Collector executed a regular lease deed in Form-K in favour of the petitioner granting the area in question on lease for a period of 20 years, since then the petitioner is carrying on the mining operations on the area leased out to him and paying royalty and also monthly rent. It was further case of the petitioner that respondent No.5 & 6 never made any complaint with regard to no objection certificate, which was given by them in favour of the petitioner. However, they filed a petition before the Hon'ble High Court of M.P. bearing W.P. No.3669/97. In that petition the Hon'ble High Court passed an order	

आदेश पत्रक

मामला क्रमांक

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विरुद्ध

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	on 12.4.1997 directing the Collector to conduct an enquiry and to find out the authenticity and veracity of the consent letter said to have been given by respondent No.5 & 6 in favour of the petitioner herein and three months time was granted to the Collector. The parties were directed to appear before the Collector on 10.5.1999. On 10.5.199 the petitioner appeared before the Collector, but since by that time, copy of the order passed by the Hon'ble Court was received in the office of the Collectorate, the petitioner was informed that intimation shall be sent to him about the date of hearing. Thereafter, a notice-dated 9.6.1999 issued by the Mining Officer was received by the petitioner on 17.6.1999, whereby he was asked to appear on 15.6.1999. After receipt of the notice, the petitioner immediately appeared on 18.6.1999 and he was informed by one Sharad Shrivastava that intimation of further date of hearing would be given to him. The petitioner accordingly submitted a representation on 2.8.1999 (Annexure P-15A) to the Collector that he be apprised about the date of hearing but no intimation was given to the petitioner and ultimately, the petitioner came to know about the report prepared by the Collector on 19.7.1999 and based on that the Additional Secretary has cancelled the lease granted in favour of the petitioner. Return on behalf of the State has been filed. It has been mentioned in the return that as per the direction of the High Court the Collector accorded ample opportunity to the petitioner, which is evident from enquiry report (Annexure R-1), therefore, the contention of the petitioner that no opportunity was given to him is	

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W P No. 5411/99

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	incorrect. A notice-dated 09.6.1999 (Annexure P-15) was also issued to the petitioner from the office of Collector to participate in the enquiry proceedings. Although the petitioner has not put forth any proof to establish that he received the said notice on 17.6.1999, but he asserted that because the said notice was served on him after 15.6.1999 he could not appear before the Collector on the said date. The representation as contained in Annexure P-15A is silent with regard to any material so as to demonstrate that the consent letter in question was a genuine document. As a matter of fact, original copy of the said document would have put forth, if any, in the matter along with representation dated 02.8.1999 itself. However, on one pretext or the other the petitioner evaded his appearance before the authority. On 22.6.1999 intimation was sent to the petitioner to appear before the Collector on 28.6.1999, this intimation was served on the petitioner through the Station House Officer, Police Station Suhela, which fact is evident from perusal of the intimation letter Annexure R-2. Therefore, it is absolutely false to say that on the part of the petitioner that he had no intimation regarding the enquiry and that he was not afforded with an adequate opportunity of being heard. It has been further mentioned in the return that the Collector recorded the statements of various persons including those who put their signatures as witnesses namely Tiharuram s/o Firkataram & Janaku Lal Sahu s/o of Bodhan Sahu, Ex-Sarpanch both residents of Village Bitkuli. Respondent No.2 as per the direction of the Court submitted the report to respondent No.1 within the stipulated	

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मामला क्रमांक

C.P.No. 5411/99

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	period and petitioner was not able to prove that the consent letter given by respondent No.5 & 6 was genuine. I have heard the learned counsel for the parties. Learned counsel for the petitioner argued that pursuant to the order dated 12.4.1999, respondent Collector was required to enquire into the allegations of respondent No.5 & 6 within a period of three months after giving an opportunity to the petitioner, which has not been given. Therefore, the impugned order is bad in law, as the same is based on the enquiry report submitted by the Collector, which was made by the Collector without giving any opportunity to the petitioner. On the other hand Shri Sanjay S Agarwal, Govt. Adv. for the State while drawing the attention of the Court towards the enquiry report submitted by the Collector argued that sufficient opportunity was given to the petitioner, but the petitioner was not able to produce the original documents showing that the consent given by respondent No.5 & 6. I have perused the enquiry report dated 07.07.1999 submitted by the Collector, Raipur based on which the impugned order cancelling the lease granted in favour of the petitioner was passed. Perusal of the enquiry report reveals that initially a notice was issued on 8.6.1999 to the parties asking them to appear on 15.6.1999, but on that date nobody appeared. However, on 17.6.1999 the petitioner herein appeared and made a complaint regarding non-receipt of the notice, then he was asked to produce	

(188)

आदेश पत्रक

मायला क्रमांक

WP NO 5461/99

सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित - 6 -	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	original copy of the consent letter or any other document showing that the consent letter given by respondent No.5 & 6 is not forged, inspite of that the petitioner had not produced any document. Again on 22.6.1999 a notice was issued to the parties to appear on 28.6.1999, that notice was sent through Station House Officer, Police Station Suhela but the petitioner did not appear. On 05.7.1999 statements of respondent No.5 & 6 were recorded by the Mining Officer, Raipur in which they had stated that 15-16 years back the land in question was given to them on lease, since the land was not fit for cultivation they gave this leasehold land to one Chandra Shekhar for a period of ten years, however, said Chandra Shekhar got the employment in the government establishment, therefore, he left the said land. On coming to know about this fact, respondent No.5 & 6 went to the petitioner herein and informed that as Chandra Shekhar had left the land in question, therefore, he should stop excavating stones from the said land. But the petitioner refused to do so, accordingly, a complaint was lodged in the Police Station Suhela. This report further reveals that on behalf of the petitioner herein his brother namely Ripu Sudan Verma appeared and he was heard by the Collector. The petitioner's brother also presented a letter-dated 27.7.1995 in which it was mentioned that as and when required the original consent letter will be produced, accordingly, he was asked to produce that original letter. On the contrary, without producing original consent letter he stated that as the Police Station Suhela and Naib Tehsildar has already enquired into the matter and	

आदेश पत्रक

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विरुद्ध

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	complaint of the land owners was found to be baseless, therefore, this complaint be filed. Ultimately, the Collector reached to the conclusion that the petitioner herein was failed to prove that the consent letter was genuine and issued by respondent No.5 & 6. Perusal of the above report further reveals that once the petitioner himself appeared in the Collectorate, he was directed to produce the original consent letter, which he could not produce. Even his brother Ripu Sudan Verma was also asked to produced his consent letter, which he assured to file, but ultimately that letter was not produced. Therefore, in view of the above facts, it cannot be said that the proper opportunity was not given to the petitioner. Even otherwise, the petitioner was not prevented from filing the original consent letter with this writ petition showing that the consent was given by respondent No. 5 & 6 and as the opportunity was not given by the Collector to him, therefore, he could not produce the said letter before the Collector. As such I do not find any substance in this writ petition, same is without force and liable to be dismissed. Accordingly, it is dismissed.	Sd/- L.C.BHADOO Judge

[पीछे देखिये]

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